

FILED

CLERK OF DISTRICT COURT

United States District Court
District of Utah**UNITED STATES OF AMERICA**
vs.**Joshua Stephen Demmitt****JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)Case Number: **2:04-CR-00659-001 JTG**Plaintiff Attorney: **Robert Lunnen**Defendant Attorney: **Clayton Sims**Atty: CJA Ref FPD

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: **01/18/2005**

Date of Imposition of Sentence

Defendant's USM No.: **NONE**Defendant's Residence Address:

Defendant's Mailing Address:

SAME

_____Country **USA**

Country _____

THE DEFENDANT:

pleaded guilty to count(s) _____
 pleaded nolo contendere to count(s) _____ which was accepted by the court.
 was found guilty on count(s) _____

COP **10/01/2004** Verdict _____**One of the Indictment****Title & Section**
18 USC §§ 844(i)**Nature of Offense**

Destruction of Property by Fire

**Count
Number(s)**
1

The defendant has been found not guilty on count(s) _____
 Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of
30 Months

Upon release from confinement, the defendant shall be placed on supervised release for a term of
24 Months

The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

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For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall maintain full-time, verifiable employment or participate in academic or vocational development throughout the term of supervision as deemed appropriate by the USPO.
2. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment under a co-payment plan, as directed by the USPO.
3. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ NONE, payable as follows:

forthwith.

in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

other:

The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:

The interest requirement is waived.

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The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
Brigham Young University Physical Facilities Division, Attn: Roy Peterman Claim #6356596 122 Thomas House Provo, UT 84602-1008	75,898.00	75,898.00
Totals:	\$ 75,898.00	\$ 75,898.00

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

Restitution is payable as follows:

in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

other:

Restitution is due immediately. Restitution shall be paid jointly and severally with co-dft, Mr. Harrison Burrows Case No. 2:04-CR-00495-001 DKW. Restitution shall be paid at a minimum rate of \$100.00, upon release from incarceration. Interest shall not accrue on the restitution amount.

The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:
 forthwith.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

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PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure:

The Court grants the USA's 5K1.1 motion for downward departure.

RECOMMENDATION

Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence at the Sheridan Oregon facility.

CUSTODY/SURRENDER

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district at _____ on _____.

The defendant shall report to the institution designated by the Bureau of Prisons by **12:00 Noon** Institution's local time, on **February 15, 2005**.

DATE:

January 27, 2005 J. Thomas Greene
J. Thomas Greene
United States District Judge

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RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

_____ UNITED STATES MARSHAL

By _____ Deputy U.S. Marshal

asp

United States District Court
for the
District of Utah
January 31, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00659

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Robert C Lunnen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Clayton A. Simms, Esq.
OVERSON & SIMMS LLC
215 S STATE ST STE 960
SALT LAKE CITY, UT 84111
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US Probation
DISTRICT OF UTAH

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United States Marshal Service
DISTRICT OF UTAH

,
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